IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE ELEVENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

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WRIT PETITION No.23100 of 2003

Between:

N. Chinnamallaiah, S/o N. Narayana, R/o 7-1-400/14, Balkampet Road, Ameerpet, Hyderabad.

..... PETITIONER

AND

1 The Government of Andhra Pradesh Home Department

Rep. by its Principal Secretary, Secreteriat, Hyderabad.

2 The Superintendent of Police Ranga Reddy District,

at Present Commissioner of Police, Cyberabad.

3 The Assistant Commissioner of Police, Balanagar,

Ranga Reddy District.

4 The Station House Officer, Kukatpalli Police Station,

Ranga Reddy District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue writ of mandamus or any other appropriate writ or direction declaring the action of the respondents 2 to 4 in not completing the investigation in Cr. No. 121/1988 of Kukatpally Police Station, Ranga Reddy district for a period of 15 years as illegal and violative of Article 21 of the Constitution of India and consequently set aside the proceedings in Cr.No.121/1988 of Kukatpally Police Station, Ranga Reddy district and further direct the 1st respondent to compensate the petitioner for mental agony.

Counsel for the Petitioner: MR.O.MANOHAR REDDY

Counsel for the Respondents: GP FOR HOME

The Court made the following:

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ORDER:

The petitioner is an electrician in Indian Government Mint, Hyderabad. The fourth respondent herein registered Crime No.121 of 1988 against the petitioner and two others in June 1988 under Section 307 of Indian Penal Code, 1908 (IPC), Sections 25(1) and 27 of Indian Arms Act, 1959, Section 5 of Explosive Substances Act, 1908 as well as Sections 3 and 4 of Terrorist and Disruptive Activities (Prevention) Act, 1987. The petitioner was arrested on 14.6.1988. As he was in detention for more than 48 hours after his arrest, the General Manager, Indian Government Mint placed him under suspension by proceedings dated 28.10.1988. Till now the petitioner is under suspension.

The long delay on the part of the fourth respondent in investigating the crime and filing charge sheet compelled the petitioner to make representation to the first respondent with a request to direct the lower officials to file charge sheet/final report before the competent criminal court, in vain. Therefore, he filed a writ petition being W.P.No.21566 of 2002. At that stage, the learned Government Pleader appearing for Home Department made a submission that a charge sheet was in fact filed. In view of the same, the writ petition was dismissed by this Court on 17.12.2002.

It appears that the charge sheet filed by the fourth respondent on the file of the Court of Judicial Magistrate of First Class, Hyderabad (West and South) was returned on the ground that material objects were not produced before the Court. In spite of the Court granting time, the fourth respondent did not file the charge sheet in a complete form along with material objects. Therefore, invoking Article 21 of Constitution of India, the petitioner filed the present writ petition to quash Crime No.121 of 1988 of P.S.Kukatpally in which the petitioner is shown as Accused No.1.

The matter came up before this Court on number of occasions. On various occasions, this Court took serious view of the matter and directed respondents 3 and 4 to appear before this Court to explain the reasons for extraordinary delay in filing charge sheet. It appears that on 19.4.2005, respondents 3 and 4 appeared in this Court but no explanation was submitted to the Court for the delay in filing the final report/charge sheet and the matter was adjourned. On 06.7.2005, this Court gave time to the learned Government Pleader for Home to get instructions in the matter.

The learned Government Pleader for Home submits that though the fourth respondent completed the investigation within time, he failed to recover any

material objects and that is the reason why charge sheet could not be filed. This would certainly lead to an inference that the petitioner is not at all responsible for the delay in the investigation.

Right to speedy trial is a fundamental right under Articles 14, 19 and 21 of Constitution of India. A seven Judge Constitution Bench of Supreme Court in **P.Ramachandra Rao v. State of Karnataka** while affirming the earlier view in **Abdul Rehman Antulay v. R.S.Nayak** reiterated that right to speedy trial is a fundamental right under Article 21 of Constitution of India. It was laid down that if the quantum of time taken by the prosecuting agency itself, amounts to violation of Article 21 of Constitution of India, the Court can terminate the proceedings. The principles laid down by the Supreme Court read as under:

1. The dictum in A.R.Antulay case is correct and still holds the field.

2. The propositions emerging from Article 21 of the Constitution and expounding the right to speedy trial laid down as guidelines in A.R.Antulay case adequately take care of right to speedy trial. We uphold and reaffirm the said propositions.

3. The guidelines laid down in A.R.Antulay case are not exhaustive but only illustrative. They are not intended to operate as hard-and-fast rules or to be applied like a straitjacket formula. Their applicability would depend on the fact situation of each case. It is difficult to foresee all situations and no generalization can be made.

4. It is neither advisable, nor feasible, nor judicially permissible to draw or prescribe an outer limit for conclusion of all criminal proceedings. The time-limits or bars of limitation prescribed in the several directions made in Common Cause (I) (**'Common Cause' A Registered Society v. Union of India**), Raj Deo Sharma (I) (**Raj Deo Sharma v. State of Bihar**) and Raj Deo Sharma (II) (**Raj Deo Sharma v. State of Bihar**) could not have been so prescribed or drawn and are not good law. The criminal courts are not obliged to terminate trial or criminal proceedings merely on account of lapse of time, as prescribed by the directions made in Common Cause case (I), Raj Deo Sharma case (I) and (II). At the most the periods of time prescribed in those decisions can be taken by the courts seized of the trial or proceedings to act as reminders when they may be persuaded to apply their judicial mind to the facts and circumstances of the case before them and determine by taking into consideration the several relevant factors as pointed out in A.R.Antulay case and decide whether the trial or proceedings have become so inordinately delayed as to be called oppressive and unwarranted. Such time-limits cannot and will not by themselves be treated by any court as a bar to further continuance of the trial or proceedings and as mandatorily obliging the court to terminate the same and acquit or discharge the accused.

5. The criminal courts should exercise their available powers, such as those under Sections 309, 311 and 258 of the Code of Criminal Procedure to effectuate the right to speedy trial. A watchful and diligent trial Judge can prove to be a better protector of such right than any guidelines. In appropriate cases, jurisdiction of the High

> Court under Section 482 CrPC and Articles 226 and 227 of the Constitution can be invoked seeking appropriate relief or suitable directions.
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> 6. This is an appropriate occasion to remind the Union of India and the State Governments of their constitutional obligation to strengthen the judicialy – quantitatively and qualitatively – by providing requisite funds, manpower and infrastructure. We hope and trust that the Governments shall act.

The case on hand presents sordid state of affairs, which resulted in gross violation of the petitioner's right to speedy trial under Article 21 of Constitution of India. A crime was registered against the petitioner and two others in June 1988. The petitioner was arrested on 14.6.1988 whereas the other two accused, accused Nos.2 and 3, were arrested on 28.6.1988. The petitioner faced suspension only because he was under detention for more than 48 hours and he lost his job as a Government of India employee, presumably, the only source of livelihood. When the petitioner made representations to the higher authorities complaining about slackness in investigation, all those complaints proved futile. When the petitioner approached this Court in 2002 by filing W.P.No.21566 of 2002, the same was dismissed, presumably, relying on the submission of the respondents that a charge sheet in fact was filed, which later turned out to be exactly not correct. Even in the proceedings before this Court, when this Court summoned respondents 2 and 3, no proper explanation was submitted to this Court for the inordinate delay in investigating a simple crime registered under Section 307 of IPC. Even after 18 years, the criminal case against the petitioner stands where it was in June 1988. The fact of this long delay is manifold causing hardship and prejudice to the petitioner. Admittedly, the material objects, which are relevant to prove the charge of attempt to murder, were not recovered and after about two decades, it would be highly impossible for any investigating agency to unearth the so-called material objects. Secondly, it is very much doubtful as to whether there are any reliable prosecution witnesses still available to stand strict scrutiny in the cross-examination at this late hour when fading memory of the witnesses has its own effect on the testimony. Viewed from any angle, any further steps either at the stage of investigation or at the stage of prosecution in Crime No.121 of 1988 would be futile exercise. The prejudice that would be caused to the petitioner, who is Accused No.1, is already patent by reason of continued suspension for about 18 years. Therefore, it is a fit case where this Court should terminate the proceedings in Crime No.121 of 1988 forthwith.

Accordingly, the writ petition is allowed and Crime No.121 of 1988 of P.S.Kukatpally is quashed. There shall be no order as to costs.

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July 11, 2005. (**V.V.S.RAO,J**)

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That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Bilal Nazki, the Acting Chief Justice on this Monday the Eleventh day of July Two thousand and Five.

To

1 The Principal Secretary, Government of Andhra Pradesh,

Home Department, Secreteriat, Hyderabad.

2 The Superintendent of Police, Ranga Reddy District,

at present Commissioner of Police, Cyberabad.

3 The Assistant Commissioner of Police, Balanagar,

Ranga Reddy District.

4 The Station House Officer, Kukatpalli Police Station,

Ranga Reddy District.

5 Two CCs to the Government Pleader for Home,

High Court Buildings, Hyderabad. (OUT)

6 Two C.D. Copies.